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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,418	08/10/2000	Christopher E. Axe	4876	6284

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EXAMINER
VAUGHN, GREGORY J

ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action **_Before the Filing of an Appeal Brief_**	09/636,418	AXE ET AL.
	Examiner	**Art Unit**	
	Gregory J. Vaughn	2178	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>29 March 2004</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): <u>See Continuation Sheet</u>.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: _____.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet</u>.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

STEPHEN HONG
SUPERVISORY PATENT EXAMINER

Continuation of 5. Applicant's reply has overcome the following rejection(s): the rejection of claim 34 under 35 USC 112 and to the rejection of claim 34 under 35 USC 101, are withdrawn in view of applicant's remarks.

Continuation of 11. does NOT place the application in condition for allowance because: the cited prior art (Henson, US Patent 6,167,383) anticipates claims 1-3, 6-9, 14-17, 23-30, 32 and 33 as stated in the previous office action (dated 1/27/2005).

In response to applicant's remark that the examiner concurred that "the plurality of slots in which the selected object may be placed" limitation was not taught by the reference in a telephone interview on 3/22/2005 (page 19, lines 17-25 of the response filed 3/29/2005), applicant is directed to the Interview Summary entered into the record on 3/28/2005, where it is stated that "Agreement with respect to the claims was not reached". The examiner maintains the position as set forth in the previous office action (dated 1/27/2005) that Henson discloses in Figure 3A at reference sign 77 selectable objects (shown as drop down list boxes with a plurality objects) and a plurality of selectable slots (slots are shown in the figure with the labels "Memory", "Hard Drive", "Monitor" etc.) where an object can be selected for placement in one of the slots.

In response to applicant's remark that Henson does not contain "any teaching that could be interpreted as "receiving a placement"" (page 20, line 4 of the response filed 3/29/2005), applicant is directed to the rejection as set forth in the previous office action (dated 1/27/2005) wherein Henson discloses receiving placement of a selected object in Figure 3a at reference sign 76 (shown as "Hard Drive").

In response to applicant's remark that "this language is not ambiguous in light of the specification filed" (page 20, lines 15-16 of the response filed 3/29/2005), the examiner uses the broadest interpretation of the claim language as is reasonably possible. The MPEP states: "The breadth of the claims in the application should always be carefully noted; that is, the examiner should be fully aware of what the claims do not call for, as well as what they do require. During patent examination, the claims are given the broadest reasonable interpretation consistent with the specification." MPEP 904.01

In response to applicant's remark that "The shopping cart of Henson could not be equated with the "constraints" of claim 2" (page 21, lines19-20 of the response filed 3/29/2005), applicant is directed to the rejection as set forth in the previous office action (dated 1/27/2005). Henson discloses: "looking up a set of constraints on the placement of the selected object" (claim 2, limitation c). Henson recites: "The database 24 provides information to the configurator 18" (column 4, lines 64-65) and "The present online store takes into account that some choices are not as right as others. Thus the configurator of the present online store has been made smarter" (column 5, lines 38-40). Henson also discloses a constraint in Figure 3A at reference sign 86 (shown as "This option is not compatible with a Windows NT ..."). Henson discloses: "storing a new set of constraints based on the placement of the selected object" (claim 2 limitation g). Henson recites: "the configurator 18 which are being driven by the database 24 are illustrated. In essence, the entire configurator 18 is being driven by the database. As mentioned, the configurator 18, shopping cart 20, and checkout 22 are each part of the commerce application 14 and prone to be driven by the database 24" (column 5, lines 55-60), (compare "inference engine" to "database"). Henson's shopping cart stores the current configuration, which are the constraints of the system being configured.

In response to applicant's remark: "that a "user intelligence" was a physical element of the claimed system and could not be equated with an implied human user of the system taught in Henson" (page 22, lines 16-18 of the response filed 3/29/2005), applicant is directed to the rejection as set forth in the previous office action (dated 1/27/2005). Henson discloses a user interface (which inherently communicates information to the user coupled to the interface) where constraints from the remote inference engine (as described above and in the office action dated 1/27/2005) are received. The user would then implement the set of constraints by using the interface.

In response to applicant's remark that "the term "user intelligence" is used, for example, to refer to logic that is on a users side of a client-server architecture" (page 22, lines 22-23 of the response filed 3/29/2005). Applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., logic that is on a users side of a client-server architecture) are not recited in the rejected claim. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to applicant's remark: "that the "user intelligence" cannot be equated with the configurator, cart, checkout and database of Henson" (page 23, lines 7-8 of the response filed 3/29/2005), applicant is directed to the rejection as set forth in the previous office action (dated 1/27/2005) and to the remarks above.

In response to applicant's remark that "Henson does not teach "(c) causing the graphical user interface to indicate that the selected object cannot be placed in the selected slot, if placing the selected object in the selected slot would violate one or more of the plurality of configuration rules" as recited in claim 16" (page 25, lines 7-10 of the response filed 3/29/2005), applicant is directed to the rejection as set forth in the previous office action (dated 1/27/2005). Henson discloses a graphical users interface indicating that a selected object cannot be placed in the selected slot because of a violation of a constraint in Figure 3A at reference sign 86 (shown as "This option is not compatible with a Windows NT ...").

In response to applicant's remark that "Applicants request that the examiner point out teachings of the limitations of claim 23" (page 26, lines 22-23 of the response filed 3/29/2005), applicant is directed to the rejection as set forth in the previous office action (dated 1/27/2005). Henson discloses in Figure 3A a configuration layout (as described above), where the configuration layout is representative of the physical layout of the product. For instance, Henson's figure 3A discloses a configuration item related to the memory of the product being configured (shown at reference signs 75 and 77) where the "96 MB SDRAM" configuration item is representative of a physical element of the product.

In response to applicant's arguments recited on page 27 lines 1-12 of the amendment filed 3/25/2005 related to claim 24, the applicant is directed to the rejection of claim 24 as set forth in the previous office action (dated 1/27/2005).

In response to applicant's remarks recited on page 28 lines 4-17 and page 28 line 23 to page 29 line 4 of the amendment filed 3/25/2005, Henson discloses a subset of configuration rules as described in the rejection of claims 29 and 30 as set forth in the previous office action (dated 1/27/2005).

In response to applicant's remarks recited on page 30 lines 1 to page 31 line 13 of the amendment filed 3/25/2005, Henson discloses a forward looking rules table as described in the rejection of claims 4 and 5 as set forth in the previous office action (dated 1/27/2005).

In response to applicant's remarks recited on page 31 line 25 to page 32 line 13 of the amendment filed 3/25/2005, Henson discloses the interpretor, implementor and a encoder functions as set forth in the previous office action (dated 1/27/2005). Regarding "receiving a set of constraints from the inference engine" Henson recites: "The database 24 provides information to the configurator" (column 4, lines 64-65). Regarding implementing the forward looking rules table   Henson recites: "The present online store takes into account that

2

some choices are not as right as others. Thus the configurator of the present online store has been made smarter" (column 5, lines 38-40). Regarding "encoding and sending data regarding a user's current selection from the plurality of donors and the plurality of receptors to the inference engine" Henson recites: "the configurator 18 which are being driven by the database 24 are illustrated. In essence, the entire configurator 18 is being driven by the database. As mentioned, the configurator 18, shopping cart 20, and checkout 22 are each part of the commerce application 14 and prone to be driven by the database 24" (column 5, lines 55-60).

In response to applicant's remarks recited on page 33 line 23 to page 34 line 8 of the amendment filed 3/25/2005, Henson discloses user intelligence stored on the client device as described in the rejection of claim 19 as set forth in the previous office action (dated 1/27/2005). Henson discloses the user intelligence as described above and in the as set forth in the previous office action (dated 1/27/2005). The user interface of Henson (Figures 3A - 4) stores the user's selections in the form of web pages running on the user's system.

In response to applicant's remarks recited on page 34 line 16 to page 35 line 8 of the amendment filed 3/25/2005 related to claim 10, Henson discloses donors and receptor components as set forth in the previous office action (dated 1/27/2005). Regarding "donors depicting the plurality of selectable components", Henson discloses the plurality of selectable components in Figure 3A at reference sign 77 (shown as a drop down list box with a plurality of selectable items). Regarding "receptors depicting the plurality of slots into which the donors can be placed", Henson discloses slots into which donor can be placed in figure 3A at reference sign 77 (shown as a selected item).

In response to applicant's remarks recited on page 35, lines 10-26, of the amendment filed 3/25/2005 related to claim 22, the applicant is directed to the rejection of claim 22 as set forth in the previous office action (dated 1/27/2005). As recited in the action of 1/27/2005, Henson discloses visually configuring a product from a plurality of selectable components with a user interface and a conflict displayer, as described above. Henson fails to disclose drag and drop functionality. King discloses the use of drag and drop functionality (page 16, paragraph 39).

In response to applicants remarks recited on page 36, lines 11-16, applicant is directed to the rejection of claim 35 as set forth in the previous office action (dated 1/27/2005), and to comments listed above.